

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

MARTINA MONDRAGON ALVARRAN	§	
(BOP Register No. 30764-077),	§	
	§	
Movant,	§	
	§	
V.	§	No. 3:16-cv-1504-N
	§	
UNITED STATES OF AMERICA,	§	
	§	
Respondent.	§	

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE
JUDGE AND TRANSFERRING SUCCESSIVE SECTION 2255 MOTION**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions, and recommendation for plain error. Finding none, the Court ACCEPTS the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.


It is therefore ORDERED, ADJUDGED and DECREED that Movant's 28 U.S.C. § 2255 motion to vacate, set aside, or correct sentence, being successive, is TRANSFERRED to the United States Court of Appeals for the Fifth Circuit for appropriate action.

Because the Court is transferring this successive habeas application to the United States Court of Appeals for the Fifth Circuit for appropriate action, the Court need not address whether Movant is entitled to a certificate of appealability ("COA").

See United States v. Fulton, 780 F.3d 683, 688 (5th Cir. 2015) (“[A] transfer order under 28 U.S.C. § 1631 is not a final order within the meaning of [28 U.S.C.] § 2253(c)(1)(B), and the appeal of such an order does not require a COA.”).

But in the event Movant will file a notice of appeal, the Court notes that Movant must pay the filing fee or file a motion for leave proceed *in forma pauperis* on appeal.

SO ORDERED this 2nd day of September, 2016.



DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE